

E-FILED - 10/15/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WILBERT NOBLE,) No. C 06-7114 RMW (PR)
Petitioner,) ORDER DENYING MOTION
vs.) FOR CERTIFICATE OF
DARREL G. ADAMS, Warden,) APPEALABILITY
Respondent.) (Docket No. 21)

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The court ordered respondent to show cause why the petition should not be granted. Respondent's motion to dismiss the petition as untimely was granted. Petitioner has filed a request for a certificate of appealability, pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b). Petitioner has not shown "that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 120 S.Ct. 1595, 1604 (2000). Accordingly, the request for a certificate of appealability is DENIED.

The Clerk shall forward this order, along with the case file, to the United States

1 Court of Appeals for the Ninth Circuit, from which petitioner may also seek a certificate
2 of appealability. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

3 This order terminates docket number 21.

4 IT IS SO ORDERED.

5 Dated: 10/10/08

Ronald M. Whyte
6 RONALD M. WHYTE
United States District Judge

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